

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

OSBORNE CONSTRUCTION
COMPANY,

Plaintiff,

v.

ZURICH AMERICAN INSURANCE
COMPANY,

Defendant.

CASE NO. C18-0349-JCC

ORDER

This matter comes before the Court on Plaintiff's motion for leave to file an amended complaint (Dkt. No. 10). Defendant has not filed a response in opposition. Having thoroughly considered the Plaintiff's briefing, the Court hereby GRANTS the motion (Dkt. No. 10) for the reasons explained herein.

On March 7, 2018, Plaintiff filed its complaint and notified Defendant of its intention to assert an additional claim for violation of Washington's Insurance Fair Conduct Act ("IFCA"). (Dkt. No. 10 at 1-2.) After the expiration of the IFCA's mandatory 20-day notice period, Plaintiff filed this motion seeking leave to amend its complaint to add the IFCA claim. *Id.*

Federal Rule of Civil Procedure 15 provides that a court should freely grant leave to amend when justice so requires. Fed. R. Civ. P. 15(a)(2). However, it is within the Court's discretion to deny leave to amend if there is evidence of undue delay, bad faith, prior

1 amendment, undue prejudice to the opposing party, or futility of amendment. *Wash. State*
2 *Republican Party v. Wash. State Grange*, 676 F.3d 784, 797 (9th Cir. 2012). Pursuant to Local
3 Civil Rule 7(b)(2), “if a party fails to file papers in opposition to a motion, such failure may be
4 considered by the court as an admission that the motion has merit.”

5 Plaintiff has demonstrated that its new claim could not be filed until after the expiration
6 of a statutory waiting period. (Dkt. No. 10 at 2.) Plaintiff has not previously amended its
7 pleading, and there is no evidence of undue delay or futility. Finally, Defendant does not object
8 to the proposed amendment.

9 For the foregoing reasons, Plaintiff’s motion for leave to file an amended complaint (Dkt.
10 No. 10) is GRANTED. Plaintiff is DIRECTED to file an amended complaint within seven (7)
11 days from the issuance of this order. The amended complaint should be identical to the one
12 contained in Appendix B of Plaintiff’s motion (Dkt. No. 10 at 17–25.)

13 DATED this 22nd day of May.

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A handwritten signature in black ink, reading "John C. Coughenour", is written over a horizontal line.

John C. Coughenour
UNITED STATES DISTRICT JUDGE